

**TOWN OF WAINWRIGHT
BYLAW 2005-15**

A BYLAW OF THE TOWN OF WAINWRIGHT TO PROHIBIT CERTAIN NUISANCES, DISTURBANCES AND ACTIVITIES CREATING NOISE AND TO ABATE THE INCIDENCE OF NOISE AND TO RESTRICT WHEN CERTAIN SOUNDS CAN BE MADE.

WHEREAS pursuant to the Municipal Government Act, R.S.A. 2000, the Council of the Town of Wainwright may pass a bylaw respecting the safety, health, and welfare of people and the protection of people and property and respecting the people, activities, and things in, on, or near a public place.

NOW THEREFORE THE COUNCIL OF THE TOWN OF WAINWRIGHT, IN THE PROVINCE OF ALBERTA, DULY ASSEMBLED, HEREBY ENACTS AS FOLLOWS:

PART 1 – TITLE AND DEFINITIONS

1. This bylaw may be called the “Noise Bylaw”.
2. For the purpose of this bylaw:

“Construction Equipment” includes, but is not limited to trenching machines, concrete mixers, backhoes and similar equipment;

“Development Officer” means a Development Officer appointed by the Town or his or her designate;

“Municipal Administrator” means the Chief Administrative Officer of the Town of Wainwright;

“Municipal Enforcement Officer” means a person appointed by the Town to carry out the provisions of this bylaw and includes a member of the Royal Canadian Mounted Police and a Special Constable;

“Person” means an individual or any business or other entity including a Firm, Partnership, Association, Corporation, Company, or Society but does not include the Town;

“Power Tool” includes any tool powered by an engine, motor, or compressed air;

“Public Property” means any schoolyard, highway, parkland, public bridge, road, lane, footway, alley or passage, whether a thoroughfare or not, and includes any open space to which the public have or are permitted to have access;

“Quiet Hours” shall mean between the hours of 10:00pm and 7:00am;

“Residential District” means any district designated for residential use in the Town’s Land Use Bylaw as amended from time to time; and

“Town” means the municipal corporation of the Town of Wainwright or where the context permits, means the area within the municipal limits of the Town of Wainwright.

PART 2 - GENERAL PROHIBITION

3. Except to the extent permitted by this bylaw, no person shall make, continue, cause or allow to be made or continued any unreasonably loud, raucous or unusual noise which annoys, disturbs, injures, endangers or detracts from comfort, repose, health, peace or safety of any other person of ordinary sensitivity within the Town.

4. Except to the extent permitted by this bylaw, no person shall permit, suffer or allow property, real or personal which he owns, occupies or controls, to be used in a manner such that there emanates therefrom any unreasonably loud, raucous or unusual noise which annoys, disturbs, injures, endangers or detracts from the comfort, repose, health, peace or safety of any other person of ordinary sensitivity within the Town.
5. Factors for determining whether a sound is unreasonably loud, raucous or unusual include, but are not limited to, the following:
 - a. proximity of the sound to sleeping facilities, whether residential or commercial;
 - b. the time of day or night the sound occurs;
 - c. the duration and volume of the sound; and
 - d. whether the sound is recurrent, intermittent or constant.
6. No person shall cause a disturbance in or near public property by fighting, screaming, shouting, swearing, or using insulting language.

PART 3 - MOTOR VEHICLES

7. No person shall use or engage in the use of engine retarder brakes within the Town.
8. No person shall allow a motor vehicle engine to remain running in a residential district or within 60 metres (200 ft) of a residential district for longer than 20 minutes while the motor vehicle is not in motion.
9. The failure of a person to comply with the provisions of the Traffic Safety Act or any regulations thereunder regarding:
 - a. the prohibition against the use of signaling devices on motor vehicles so as to make more noise than is reasonably necessary;
 - b. the restrictions in the type or use of mufflers and similar equipment;
 - c. the prohibition against creating or causing the emission of any loud and unnecessary noise from a motor vehicle; or
 - d. the operation of a vehicle on a highway in a residential district between the hours of 10:00pm and 7:00am in a manner that unduly disturbs the residents of that area;

is an offence under this bylaw in addition to and not in substitution for any offence of which a person may be guilty under the provisions of such Act or the regulations thereunder.

PART 4 - CONSTRUCTION

10. Unless a permit from a Development Officer is first obtained, no person shall during quiet hours carry on any manufacturing, construction, repair, alteration, or demolition that includes but is not limited to hammering, sawing, and the use of any power tools or construction equipment capable of creating a sound which may be heard beyond the boundaries of the site on which the activity is being conducted.

PART 5 - DOMESTIC

11. No person shall operate construction equipment, power tools, a power lawn mower, or any snow-clearing device in any residential district during quiet hours.

PART 6 - INDUSTRIAL

12. a. Nothing in this bylaw shall prevent the continual operation or carrying on of an industrial activity where the activity is one, which is a permitted use, or an approved discretionary use allowed in the Town's Land Use Bylaw.

b. In the operation or carrying on of an industrial activity all equipment shall be in good repair and the person operating or carrying on that activity shall make no more noise than is necessary in the normal method of performing or carrying on that activity.

PART 7 - SNOW REMOVAL

13. No person shall remove snow from commercial or private property within 60 metres (200 ft) of a residential district between the hours of 12:00am and 6:00am on any day without a permit granted by the Development Officer.

PART 8 - EXCEPTIONS

14. This bylaw shall not apply to:
- a. any person performing work of an emergency nature for the preservation or protection of life, health, or property, but the onus shall be on the person performing the work to show that the work was of an emergency nature;
 - b. any act of maintenance or repair being carried out by employees or contractors of the Town;
 - c. any act of emergency maintenance or repair being carried out by employees or contractors of any private utility;
 - d. the operation of emergency equipment or any emergency vehicle;
 - e. a Peace Officer engaged in performing his duty; or
 - f. any activity within the sole jurisdiction of the Government of Canada or the Province of Alberta.

PART 9 - PERMITS

15. A Development Officer may issue a permit to a person for the purpose of allowing noise within a designated area and between designated times. The Municipal Administrator may revoke such permit at any time.

PART 10 - SEVERANCE

16. If any section of this bylaw is found to be illegal or beyond the power of the Town's Council to enact, such section shall be deemed to be severable from all other sections of this bylaw.

PART 11 – OFFENCE AND PENALTY

17. Any person that breaches or contravenes any provisions of this bylaw or fails to act in compliance and accordance with any notice given to him under this bylaw is guilty of an offence.

18. When a municipal enforcement officer has reasonable grounds to believe that a person has contravened any provisions of this bylaw, he or she may serve upon such person an offence ticket allowing the payment of a specified penalty as described in Schedule A to the Town within fourteen (14) days of the issuance date of the offence ticket. The Town shall accept such payment in lieu of prosecution for the offence.

19. Service of an offence ticket shall be sufficient if it is:

- (a) personally served; or
- (b) mailed by registered mail to the address of the person who has contravened the bylaw.

20. The offence ticket shall state:

- (a) the name and address of the offender if ascertainable;
- (b) the offence;
- (c) the location, date and time of the offence;
- (d) the specified penalty; and
- (e) that the penalty shall be paid with fourteen (14) days of the issuance of the offence ticket to avoid prosecution for the offence.

21. Unless otherwise stated in this bylaw, where contravention of this bylaw is of a continuing nature, further offence tickets may be issued by a municipal enforcement officer, provided, however, that no more than one offence ticket shall be issued for each day that the contravention continues.

22. A municipal enforcement officer is hereby authorized to issue a violation ticket in accordance with the provisions of the Provincial Offences Procedure Act, Chapter 21, R.S.A. 2000 and amendments thereto to any person who fails to pay the penalty specified in an offence ticket issued under Section 18 within the prescribed time period.

23. A violation ticket issued under Section 22 may specify a penalty as described in Schedule A.

PART 12 – EFFECTIVE DATE

24. Bylaw 81-13 is hereby repealed.

25. This Bylaw shall come into force and effect upon third (3rd) and final reading.

READ a first time this 15th day of November, A.D., 2005.

Mayor

Municipal Administrator

READ a second time this ____ day of _____, A.D., 2005.

Mayor

Municipal Administrator

READ a third time and finally passed this ____ day of _____, A.D., 2005.

Mayor

Municipal Administrator

SCHEDULE A – PENALTIES

Specified Penalties for Municipal Tags

| | |
|------------------------------|------------|
| First Offence: | \$250.00 |
| Second Offence: | \$500.00 |
| Third and Subsequent Offence | \$1,000.00 |

Specified Penalties for Violation Tickets

| | |
|------------------------------|------------|
| First Offence: | \$300.00 |
| Second Offence: | \$600.00 |
| Third and Subsequent Offence | \$1,200.00 |

Note:

For both municipal tags and violation tickets, a second, third or subsequent offence is deemed to be committed if it occurs within one (1) year of the previous offence.